

### ***REMARKS***

Applicant replies to the Notice of Non-Compliant Reply dated October 11, 2006, within the shortened one month statutory period for reply. Reconsideration of this application is respectfully requested.

Applicant thanks the Examiner for the courtesies extended during the telephone conference with Applicant's attorney Howard Sobelman on October 16, 2006. In this call, the Examiner explained that a cap species must be selected and any claims that do not read upon the cap species must be withdrawn. The withdrawn claims will not be under further consideration

The Examiner has asserted a Restriction Requirement under 35 U.S.C. § 121 requiring restriction of the application to the cap embodiments of Figures 2A-E and the fixation of bone embodiments disclosed in the various embodiments in Figures 4A-G.

Applicant hereby elects Species C under "Cap" which includes Figure 2C. Applicant also asserts that claims 1-22 and 25 are readable on Species C. Therefore Applicant withdraws claim 23, 24 and 26 without prejudice.

Applicant hereby elects Species G under "Fixation of bone fracture" which includes Figure 4G. Applicant also asserts that claims 1-26 are readable upon Species G. Applicant has selected Species G in order to expedite prosecution of this application. Applicant does not acquiesce to the Examiner's foundation for the Restriction Requirement as set forth in the Office Action.

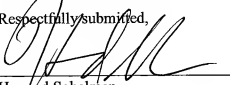
Accordingly, the foregoing election is made without waiver, estoppel or without prejudice to the filing of one or more related applications directed to the subject matter of any subsequently canceled claims.

Applicant asserts that the foregoing conforms this application to the Examiner's Restriction Requirement dated July 18, 2006.

Applicants submit that the application is now in condition for examination on the merits. Early notification of such action is earnestly solicited. Should the Examiner have any suggestions to place the application in even better condition for allowance, Applicants request that the Examiner contact the undersigned representative at the telephone number listed below. No new matter is added in this Response. Reconsideration of the application is thus requested.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 19-2814 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

  
Howard Sobelman  
Reg. No. 39,038

Dated: October 16, 2006

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